

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION

B.P., H.A., and S.H.,)
individually, and on behalf of)
all others similarly)
situated,)
)
)
Plaintiffs,)
)
)
v.) No. 2:23-CV-00071
)
 TRM-JEM
)
City of Johnson City,)
Tennessee, et al,)
)
)
Defendants.)

* * * * *

DEPOSITION OF STEVEN FINNEY
(Confidential - Subject to Protective Order)

July 17, 2024

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LEXITAS LEGAL

Jeffrey D. Rusk, RPR, LCR, CLVS
805 Eleanor Street, N.E.
Knoxville, Tennessee 37917

1 Q. You conferred with the Tennessee
2 Board of Professional Responsibility about speaking
3 directly to my clients and not going through their
4 lawyer.

5 A. Right.

6 Q. Did you confer with them about your
7 statement that my representation of my clients was
8 potentially improper?

9 A. No.

10 Q. Did you --

11 A. You saw exactly what I asked them
12 about.

13 Q. Did you confer with any other
14 lawyer about your representation to me that my
15 representation of my own clients could be improper?

16 A. No. I conferred with one person on
17 the Board and asked them, unofficially, if --
18 because they were a former United States Attorney,
19 if -- if -- if ad hoc vice for federal court also
20 applied for state court. That's -- that's the only
21 thing I asked. Guy Blackwell.

22 Q. Who?

23 A. Guy Blackwell.

24 Q. And when was that?

25 A. When was that? Sometime prior to

1 It is confidential at this point.

2 MR. RADER: And I'll just join in
3 that, and I'm designating the entire
4 deposition as confidential until such time
5 as I've had an opportunity to review the
6 written transcript.

7 And I am specifically designating
8 as confidential any portions of the
9 testimony that relate to the digital
10 evidence at this time.

11 MR. WELLS: Are we ready? Can you
12 hear me okay?

13 COURT REPORTER: Yes.

14 EXAMINATION

15 BY MR. WELLS:

16 Q. Okay. All right, Mr. Finney. I
17 know it's been a long day, but I've just got just a
18 few questions, okay?

19 A. Okay.

20 Q. My name is Aaron Wells. I
21 represent Jeff Legault, Justin Jenkins, otherwise
22 known as J.P. Jenkins, and Brady Higgins in this
23 case.

24 First of all, do you know Jeff
25 Legault?

1 A. Yeah. I haven't seen him in
2 forever.

3 Q. Okay. Have you --

4 A. Yeah. I mean, through law
5 enforcement. And I've spent a lot of hours with all
6 these guys. Brady. But it's all through law
7 enforcement. Never had lunch with them. Never had
8 dinner but, yes, I've known Legault, and that's what
9 everybody just calls him, probably 15 years, maybe,
10 however long he's been with the department.

11 Justin -- Justin, I can remember
12 when he was in patrol and he was after on patrol.
13 He was kind of an adversary, you know, when I was a
14 defense attorney, because he brought a lot of cases,
15 and I was going against him.

16 Brady I've known probably the
17 shortest amount of time, but we had this shooting on
18 New Year's Eve that I keep talking about, and I
19 spent a lot of time with my chief homicide
20 investigator. We spent a lot of time with Brady
21 during that time, there in that time period.

22 Q. Your perception of those three men,
23 is it that they're good police officers?

24 A. Yes.

25 MS. BAEHR-JONES: Objection.

1 Q. (BY MR. WELLS) Based on your
2 experience?

3 A. Yes.

4 MS. BAEHR-JONES: Objection.

5 Q. (BY MR. WELLS) Have you ever
6 communicated with Justin Jenkins on your cell phone?

7 A. Oh, I'm sure I probably have, but I
8 don't have everybody I've ever come in contact with,
9 like putting their name in and things of that
10 nature. I'm not big on that. I have my friends and
11 like Billy Church, you know. I can look and see but
12 I don't --

13 Q. And that's fine. I'm not asking
14 you to do that right now.

15 Is there anything specific that you
16 would have recalled communicating with Justin
17 Jenkins about on your cell phone?

18 A. It would be a case, if I did.

19 Q. You mentioned a few times a
20 daylight kidnapping and rape case that happened when
21 you -- when you first were sworn in.

22 A. Yes.

23 Q. Was Justin Jenkins the investigator
24 on that case?

25 A. I think they had all hands on deck.

1 Q. Okay. I believe you said they went
2 above and beyond on that.

3 A. It was incredible, the speed and
4 what they did. It was great police work. The whole
5 department was on that case.

6 Q. All right. The TBI investigation
7 into the safe, you said that seven officers were
8 interviewed as part of that --

9 A. Yes.

10 Q. -- investigation; is that correct?

11 A. Yes.

12 Q. Okay. Do you recall whether or not
13 Justin Jenkins was interviewed?

14 A. I don't.

15 Q. You don't recall or --

16 A. I don't recall. I don't -- I don't
17 recall it today.

18 Q. How about Jeff Legault?

19 A. I don't -- I don't recall. I just
20 flat out don't recall. I'd have to look at.

21 Yes, I remember. Yes. Yeah. I'm
22 sorry. Epiphany. I remember because I did legal
23 pad notes from all their statements, and I do
24 remember Jeff's name because I remember spelling it
25 out.

1 Q. Okay.

2 A. It's okay.

3 Q. Does anything stand out to you
4 about that interview?

5 A. No.

6 Q. Okay. And then going back on you a
7 little bit, do you have experience with Legault,
8 Jenkins, and Higgins both in your role as a
9 prosecutor and in your former role as a defense
10 attorney?

11 A. I do Justin. I want to say yes
12 with Legault, because he was -- he was in SIS or a
13 drug agent and -- but I do not remember Brady from
14 my defense practice.

15 Q. Okay. Do you know Scott Jenkins?

16 A. Yes.

17 Q. Okay. How long have you known
18 Scott Jenkins?

19 A. Longer than -- much longer than
20 Justin, because he's been with the department a lot
21 longer.

22 Q. Okay. Do you know what his current
23 title is?

24 A. He's like assistant chief at this
25 point.

1 Q. Okay. Do you ever -- did he -- do
2 you know whether or not he ever worked drugs or any
3 kind of those cases?

4 A. You know, with his career he's
5 probably worked a little bit of everything, but I
6 can't quote what he's done.

7 Q. Okay. Do you ever communicate --
8 or have you ever communicated with Scott Jenkins on
9 your cell phone?

10 A. I -- once he started getting rank,
11 as a defense attorney, you never -- you never hear
12 from those guys. You never have an occasion to talk
13 to them. It was probably months into my becoming
14 the DA before I ever had any conversation with
15 Scott, Scotty Jenkins, and that was at these bigger
16 meetings or introductions and things of that nature.

17 Q. So it's fair to say, once he gets
18 in sort of a more administrative type role, your
19 communications with him lessen at that point.

20 A. Absolutely.

21 Q. Okay. All right. And you
22 testified today that you've got a lot of experience
23 working drug cases; is that fair?

24 A. Drug cases. Yes, sir.

25 Q. Had a lot of experience with money

1 being seized; is that fair?

2 A. Yes.

3 Q. Okay. I'm not sure what exhibit
4 number it is, but the picture of the money that was
5 taken from the safe --

6 A. Yeah.

7 Q. Do you have that with you?

8 A. It's -- yes. I see the corner of
9 it right here.

10 Oh, that was quick.

11 Q. And you said -- what exhibit is
12 that?

13 A. 145.

14 Q. 145? Okay.

15 And you said that, in your
16 experience, law enforcement counts every dime of
17 this money.

18 A. I've never been in a -- yes.

19 Q. Okay. What's the most amount of
20 money you've ever seen out of a law enforcement
21 investigation?

22 A. State wise, I can't tell you.

23 Q. Is it more or less than \$500,000?

24 A. Oh, yeah. It's less.

25 Q. Less than \$500,000?

1 A. Yeah.

2 Q. Well --

3 A. In a state-level case. Yes.

4 Q. Okay. And the exhibit that you're
5 looking at, that is what was pulled out of the safe
6 from Williams's apartment.

7 That's correct?

8 A. Yes.

9 Q. Okay. Does that look like \$500,000
10 to you?

11 A. No. Not even close.

12 Q. And in your review of the TBI
13 investigation, there was no indication in those
14 materials that that safe was opened at any time
15 prior to what we saw on the video.

16 A. That is correct.

17 MS. BAEHR-JONES: Objection. And
18 I'm going to object to the, "Does that look
19 like \$500,000."

20 Q. (BY MR. WELLS) Okay. And again, in
21 your experience as a prosecutor, and even as a
22 defense attorney, and we've talked about this a
23 little bit today, in rape investigations, sexual
24 assault investigations, is it a fair statement to
25 say that time is of the essence in those

1 investigations?

2 A. Yes.

3 Q. Okay. And why is that?

4 A. Because you lose evidence. The
5 perpetrator, suspect, has a chance to talk to
6 witnesses, coerce witnesses.

7 And again, I'm talking about
8 primarily what we have in this jurisdiction is the
9 date rape type of situation, either by physical or
10 drugs, and to let those sit and linger causes major
11 prosecution problems.

12 Q. Okay. You mentioned some of those
13 problems.

14 What could some other of those
15 problems be?

16 Would credibility be one of those
17 problems?

18 A. Well --

19 MS. BAEHR-JONES: Could you be more
20 specific?

21 A. Yeah.

22 Q. (BY MR. WELLS) Credibility of a report.

23 A. Well, anytime someone delays
24 reporting, and there's reasons that the -- in a date
25 rape that a woman would delay reporting. She can

1 actually go to the hospital, not the police, but
2 still have a rape kit put on file. And it's -- it
3 sits there. If she changes her mind, then it would
4 be processed.

5 We have like the SART boards, and
6 there's even -- there is like the reports that I get
7 from Branch House who is running all of our SANE
8 nurses and everything, they do reports on ones
9 that -- I'm trying to put it the best way I can,
10 that ladies that -- again, there's time ladies don't
11 want -- just want it on file, and they'll put a stat
12 of how many of those there are.

Not everyone wants to come in and proceed immediately. As a prosecutor, I would -- you know, we've got the evidence there. Tell us to push it forward, and -- but that's the individual's call. If they want to push it forward, the earlier -- and we've had that, because generally they go that night before they've showered or anything along those lines. So the swabs can be done, the pelvic can be done, and we can collect the DNA.

23 So yes, again, every answer I've
24 got, it's got to provide -- because not every woman
25 wants to do it immediately. And I'm -- there is --

1 there are cases of sodomy, male on male. But I'm
2 going from the basis of what we have, as far as the
3 number, the number of reported are female by male.

4 Q. Okay. In a situation where, we'll
5 just say a female in this case, does not go and have
6 that rape kit done --

7 A. It makes -- it makes it difficult,
8 because we're always, always in a prosecution. And
9 prosecutors always want more and more and more. I'm
10 as guilty at that as anybody. Okay. Go do this.
11 We want more and more and more. A delay in your,
12 you know, reporting is a problem. It is a -- can be
13 and is a problem in an effective prosecution. But I
14 do understand, as I said earlier, why they do that.
15 It's emotionally the trauma. Everybody reacts
16 differently.

17 Q. Sure. Sure.

18 So is it fair to say in this
19 scenario, say a person doesn't report a sexual
20 assault or rape for a year, a year and a half, and
21 in the interim there was no rape kit, there was
22 nothing else other than a report a year and a half
23 later.

24 Does that make a case less
25 prosecutable, if that's a word?

1 A. Yes.

2 Q. Okay. And why is that?

3 A. Because you've lost evidence.

4 You've lost witnesses, if there is witnesses. We've
5 talked a lot about witnesses. A lot of times
6 there's not witnesses, and that's where you need the
7 corroborated proof of what the house looked like or
8 drinking. I'm a big proponent of collect the beer
9 cans, collect evidence that may seem like nothing,
10 but nothing builds into something. And if you wait
11 over a year, all of that is gone. People may move.
12 There's a multitude of reasons that that causes
13 massive problems.

14 Q. Okay. And along the same lines of
15 evidence, collecting evidence, this protocol that we
16 discussed today, do you know when that protocol
17 became effective?

18 A. November 21st, 2022.

19 Q. Okay. All right. And a big part
20 of that protocol, in general, generally speaking, is
21 early and often involvement by a prosecutor.

22 A. Yes.

23 Q. Is that important?

24 A. Yes, and that's -- that's something
25 that I don't know that other jurisdictions do, as

1 far as the on-call, because I bet -- I wanted to
2 really set a standard of communication for more
3 effective prosecution, not just close by arrest.

4 Q. And do you think a prosecutor is in
5 a better position than a police officer or an
6 investigator to determine whether or not there's
7 probable cause to bring the charge?

8 A. Yes.

9 MS. BAEHR-JONES: Objection.

10 That's vague.

11 A. But it's based on what the law
12 enforcement brings to the prosecutor and how they
13 bring it.

14 Q. (BY MR. WELLS) Okay. So if an officer
15 consults a prosecutor, gets guidance from a
16 prosecutor during the course of a rape investigation
17 or sexual assault investigation, that's the right
18 thing to do.

19 MS. BAEHR-JONES: Objection.

20 A. Yes, especially following this
21 protocol.

22 Q. (BY MR. WELLS) And is it reasonable for
23 a police officer to not pursue charges of sexual
24 assault or rape if a prosecutor tells them that they
25 don't have enough?

1 MS. BAEHR-JONES: Objection.

2 A. Yes. But, again, this protocol is
3 different than what I believe was the standard,
4 because there wasn't records or wasn't things kept
5 that -- and how it would be couched to a prosecutor.
6 And now I have people that are specialized more so
7 that know the questions to ask. And it's -- it's a
8 non-judgmental basis when they are consulted.

9 Q. Okay. But in any event, whether or
10 not the protocol is in place or was not in place,
11 it's totally reasonable for a police officer to rely
12 on the advice of a prosecutor.

13 A. Yeah.

14 MS. BAEHR-JONES: Objection.

15 A. Yes.

16 MR. WELLS: Okay. All right.

17 That's all the questions I have for you,
18 Mr. Finney. I appreciate your time.

19 THE WITNESS: Thank you.

20 EXAMINATION

21 BY MR. RADER:

22 Q. My name is Danny Rader. Of course,
23 I introduced myself to you earlier today, and I
24 represent Kevin Peters. I've got just a few
25 questions for you. I won't take very much time.

5 A. We did.

6 Q. And Mr. Peters cooperated with you
7 in doing that.

8 A. Yes.

9 Q. And helped to try to make
10 suggestions to improve it in an interactive process
11 with your team; is that correct?

12 A. And that was in group -- group
13 meetings with other investigators and some of the
14 rank that -- and I took my assistants to it, and we
15 had a rough draft. There were some differences of
16 opinions and things. And, honestly, there are a
17 couple of things that law enforcement brought to us
18 that we implemented.

19 Q. And Mr. Peters helped do that; is
20 that correct?

21 A. Yes.

22 Q. And when the protocol was adopted
23 on November 21st, 2022, for the remainder of his
24 time before his retirement, Mr. Peters saw to it
25 that the protocol was implemented.

1 A. Yes.

2 Q. And the process improved, correct?

3 A. Yes.

4 Q. Did you see any indication during
5 your time as DA or otherwise that Mr. Peters was
6 anything other than a law enforcement officer who
7 wanted to prosecute bad guys?

8 MS. BAEHR-JONES: Objection.

9 Q. (BY MR. RADER) Did you have any --

10 A. I believe he -- no. I believe he
11 was.

12 Q. All right. And he wanted to catch
13 bad guys --

14 A. Yes.

15 Q. -- and put them in jail, didn't he?

16 A. Yes.

17 MS. BAEHR-JONES: Objection.

18 A. Yes.

19 Q. (BY MR. RADER) You didn't see any
20 indication that he didn't respect any victims, did
21 he -- did you?

22 MS. BAEHR-JONES: Objection.

23 A. Not -- no.

24 Q. (BY MR. RADER) All right. And now
25 you've talked about you have cases where it's male

1 on male sexual assault or even female on male sexual
2 assault.

3 A. Right.

4 Q. It's not just male and female
5 sexual assault in Johnson City.

6 A. No.

7 Q. Prior to your protocol in November
8 of 2022, were the investigations of male on male
9 sexual assault and female on male sexual assault
10 treated essentially like male on female sexual
11 assault?

12 A. Yes.

13 Q. So in other words, if there were
14 deficiencies in the process, it was deficiencies
15 regardless of gender; is that correct?

16 A. Yes.

17 MS. BAEHR-JONES: Objection.

18 Q. (BY MR. RADER) All right. And after
19 the policy was introduced, the improvements were
20 also improvements regardless of gender; is that
21 correct?

22 A. Yes. I believe so.

23 Q. All right. Now, with respect to
24 the safe and with your investigation of the
25 potential for theft and other things like that,

1 Mr. Peters wasn't present when that safe was opened,
2 was he?

3 A. I do not remember him being one of
4 the seven.

5 Q. All right. And no reason to
6 believe that he had anything to do with that
7 process.

8 A. No.

9 Q. All right. When the safe was
10 investigated, I understand that you determined that
11 there was no prosecution to go forward; is that
12 correct?

13 A. That is correct, based on what the
14 TBI brought to me.

15 Q. And you did not suspect and your
16 team did not suspect that there had been any actual
17 theft; is that correct?

18 A. No. No, I didn't think there was
19 any theft at all.

20 Q. Okay. And whether you could
21 prosecute theft or not, if you thought there had
22 been theft, even if you couldn't identify the thief,
23 you still would have done something to say, "Hey,
24 there's a problem in the police department," right?

25 A. Yes. The fact they didn't count

1 that money is ridiculous.

2 Q. And maybe even negligent, right?

3 A. Yes.

4 Q. But no evidence of any intentional
5 theft or taking of any money.

6 A. No.

7 Q. All right. And certainly no
8 indication that Mr. Peters received any money.

9 A. Correct.

10 Q. You've seen the Facebook post where
11 Mr. Williams said that it was \$500,000, that he only
12 received 81,000.

13 A. I've read that somewhere. I don't
14 know. I think it's from a pleading. One of the
15 federal pleadings, I think, is where I got that.

16 Q. And you don't have any reason to
17 believe that the amount of cash that's shown in that
18 video is any more than the amount of cash that
19 Mr. Williams received back; is that correct?

20 A. No.

21 Q. All right. As far as you know,
22 everything that was in the safe was properly
23 returned to the owner.

24 A. Everything other than what was
25 seized as evidence.

1 Q. All right. And talking about the
2 items that were seized as evidence, you've told us
3 today about the devices that had some data on them.

4 A. Right. Uh-huh.

5 Q. If any of the Johnson City Police
6 officers had access to those devices to see what was
7 on them without a warrant, would that have violated
8 Mr. Williams' Fourth Amendment rights?

9 A. Yes.

10 Q. And would that evidence then be
11 excluded in any prosecution of him?

12 A. Yes.

13 Q. All right. And, of course, you
14 testified today that you don't have any information
15 as to whether or not they had enough information to
16 get a warrant or not; is that correct?

17 MS. BAEHR-JONES: Objection.

18 A. I do not.

19 Q. (BY MR. RADER) All right. Now, as far
20 as you know, if there was an investigation of any
21 corruption by any Johnson City Police officers that
22 involved your office or the TBI or FBI, as far as
23 you know, that investigation is over.

24 MS. BAEHR-JONES: Objection.

25 A. Yes.

1 Q. (BY MR. RADER) And as far as you know,
2 that investigation found that there was no
3 malfeasance.

4 MS. BAEHR-JONES: Objection.

5 A. Correct. No criminal offenses,
6 malfeasance.

7 MR. RADER: All right. I don't
8 have any further questions for you. Thank
9 you.

10 VIDEOGRAPHER: Are we off the
11 record?

12 MS. BAEHR-JONES: No. We have one
13 more, two more.

14 EXAMINATION

15 BY MR. ALLEN:

16 Q. I just have a few questions. My
17 name is Ben Allen. I represent Toma Sparks.

18 I think I know this based off your
19 earlier testimony, but I want to just clarify.

20 Is it fair to say that you never
21 spoke to Toma Sparks about Sean Williams or any of
22 those cases?

23 A. Never.

24 Q. Okay. Do you recall if Toma Sparks
25 was interviewed by the TBI?

1 A. I'd have to look at my notes. I'd
2 have to look.

3 Q. Okay. So you sitting here today,
4 you don't have a memory of that.

A. I just don't remember that.

6 Q. Okay. And do you know if a victim
7 can receive a rape kit from an urgent care or a
8 walk-in clinic?

9 A. I have never heard of that. I have
10 personally never heard of that.

11 Q. And earlier I know you testified
12 about some cases that you believed had a higher
13 closure rate than other types of cases.

14 A $\text{U}_\text{h} = \text{h}_\text{U}\text{h}$

15 Q. Is it fair to say that different
16 types of cases are harder -- some are harder than
17 others to prove and prosecute?

18 A Yes

19 Q. And in your experience, would it be
20 abnormal that some types of cases would have a lower
21 closure rate because maybe they're a more difficult
22 type of case?

23 MS. BAEHR-JONES: Objection.

24 A. I agree with that.

25 Q. (BY MR. ALLEN) In your experience,

1 would cases involving sexual assault or sexual
2 violence be a more difficult case to prosecute?

3 A. Depends on the factual scenario.

4 MR. ALLEN: Okay. That's all I
5 have. Thank you.

6 MS. BAEHR-JONES: I have a couple
7 follow-ups.

8 Are you going to go, Mr. Herrin?

9 VIDEOGRAPHER: Can we move the
10 water bottle back?

11 MS. BAEHR-JONES: Oh, it's
12 migrated. I know. I know. It keeps
13 wanting its moment in the spotlight.

14 Did you say you were, or no?

15 VIDEOGRAPHER: We're still on the
16 record, right?

17 MR. HERRIN: You're still on the
18 record?

19 COURT REPORTER: Yes.

20 MR. HERRIN: Okay. Mr. Finney, I
21 have several hours of questioning for you.

22 THE WITNESS: Thanks.

23 MR. HERRIN: Considering that
24 you've been here more than seven hours, and
25 considering the rules that we're going by